

Application No. 09/937,792
Paper Dated: August 6, 2003
In Reply to USPTO Correspondence of May 7, 2003
Attorney Docket No. 2046-011632

REMARKS

Claims 1, 2, 5, 7-10, 12-17, 19-23, 27, and 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,147,822 to Watts. Claims 3 and 6 stand rejected under 35 U.S.C. § 103(a) for obviousness over the Watts patent. Claims 4, 11, and 18 stand rejected under 35 U.S.C. § 103(a) for obviousness over the Watts patent in view of U.S. Patent No. 2,489,182 to Huck. In response, Applicants have amended claims 1, 9, 14, 15, 17, and 23. In view of these amendments and the following remarks, Applicants traverse the rejections.

Applicants' invention, as set forth in the amended independent claims, is directed to either a wayside applicator bar or the applicator bar used in a rail applicator system that essentially includes a body, a flow passageway defined in the body for the material to flow through, the flow passageway defining an exit end, and a dam and/or a skirt positioned adjacent the exit end adapted to contain material with an outside surface of the head of the rail, where the dam terminates at the crown of the head of the rail and/or the skirt directs material to the crown of the rail.

None of the prior art of record teaches an arrangement for directing friction modified material to the "crown of the head of the rail." All of the prior art of record discloses placing modifying friction material to the side of the rail head.

It has been recognized that friction modifying material is most effective when applied to the head of the rail. However, heretofore, this has been an impossibility from a wayside applicator. Hence, friction modifying material has been applied to the side of the rail head. One only needs to look at the drawings in the prior art references showing a rail wheel contacting the head of the rail to realize that applying friction modifying material to the head of a rail such as that the prior art applicator systems would be detrimental and

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destructive to the prior art systems. Hence, heretofore, wayside applicators applied friction modifying material to the side of the rail head. This has proven less than satisfactory in many applications.

Applicants' invention overcomes these problems by recognizing the advantage of applying friction modifying material to the crown of the head of the rail via a wayside system. This has been accomplished in one of two manners. First, a dam has been provided, which incorporates a rail head to enable friction modifying material to pool toward the crown of the rail. In another aspect of the invention, a skirt may be used that may be incorporated with the dam to direct the material to the crown area of the head of the rail. The prior art of record does not teach or suggest the use of a dam and/or a skirt to direct friction modifying material toward the "crown of the head of the rail." Therefore, it is believed that independent claims 1, 9, 14, and 23 are patentable over the prior art of record.

Further, claims 2-8 depend from claim 1 either directly or indirectly, claims 10-13, 22, 27, and 28 depend from claim 9 either directly or indirectly, and claims 15-21 depend from claim 14 either directly or indirectly. The preamble of all of these claims has been amended to specifically identify that they relate to a wayside applicator. Hence, it is believed that these claims are patentable over the prior art of record for the same reasons the independent claims are patentable over the prior art of record.

The drawings stand objected to for various informalities. Specifically, two reference numerals 48 have been included in the drawings related to the manifold and spacers. In response, the reference character 48 has been eliminated. The spacers have been identified as reference character 40. Likewise, the specification has been amended to identify the spacers as reference character 40. Figs. 2 and 5 have been amended to correct lead lines.

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Substitute drawings have been provided in this Amendment. Further, the proposed drawing changes are also indicated in this Amendment.

Claims 4 and 22 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In response, claim 4 has been amended and Applicants traverse the rejection of claim 22.

In response, claim 4 has been amended to change Neoprene to rubber. No new matter has been added.

Applicants traverse the rejection of claim 22, which depends from claim 13, with respect to antecedent basis or "said distribution blade." Referring back to claim 13, there is clear antecedent basis for the recitation of "said distribution blade." Therefore, Applicants request that the Examiner withdraw the 35 U.S.C § 112 rejection of claim 22.

CONCLUSION

In view of the foregoing, it is believed that pending claims 1-23 and 27-28 are patentable over the prior art of record in view of the above-identified Amendment. Reconsideration of the rejections and objections is respectfully requested.

Respectfully submitted,

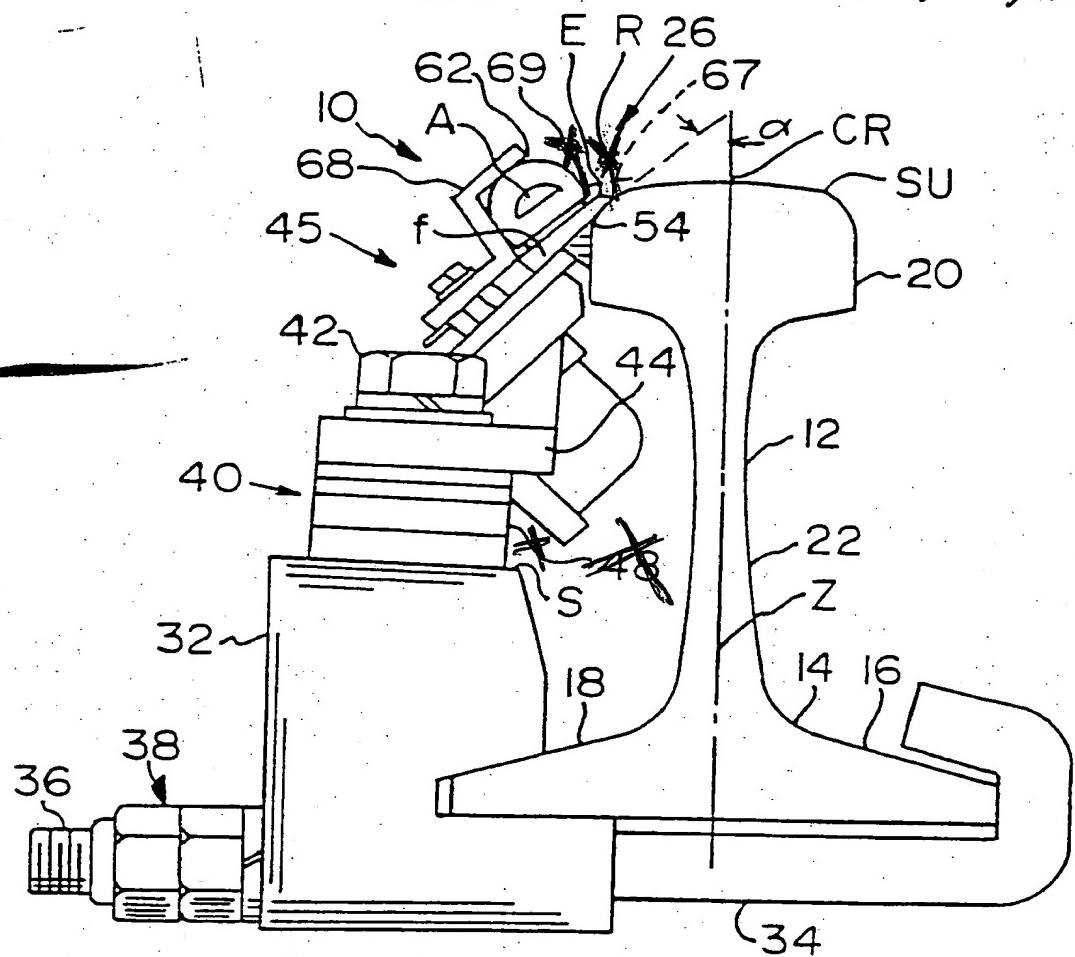
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Proposed change in
216 red and yellow highlight



³ PROPOSED changes
in red and yellow highlights

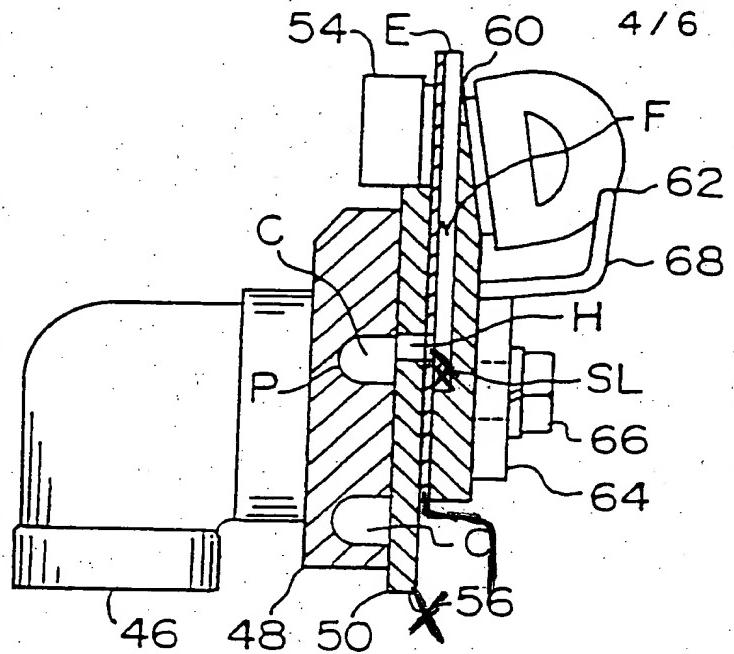


FIG. 5

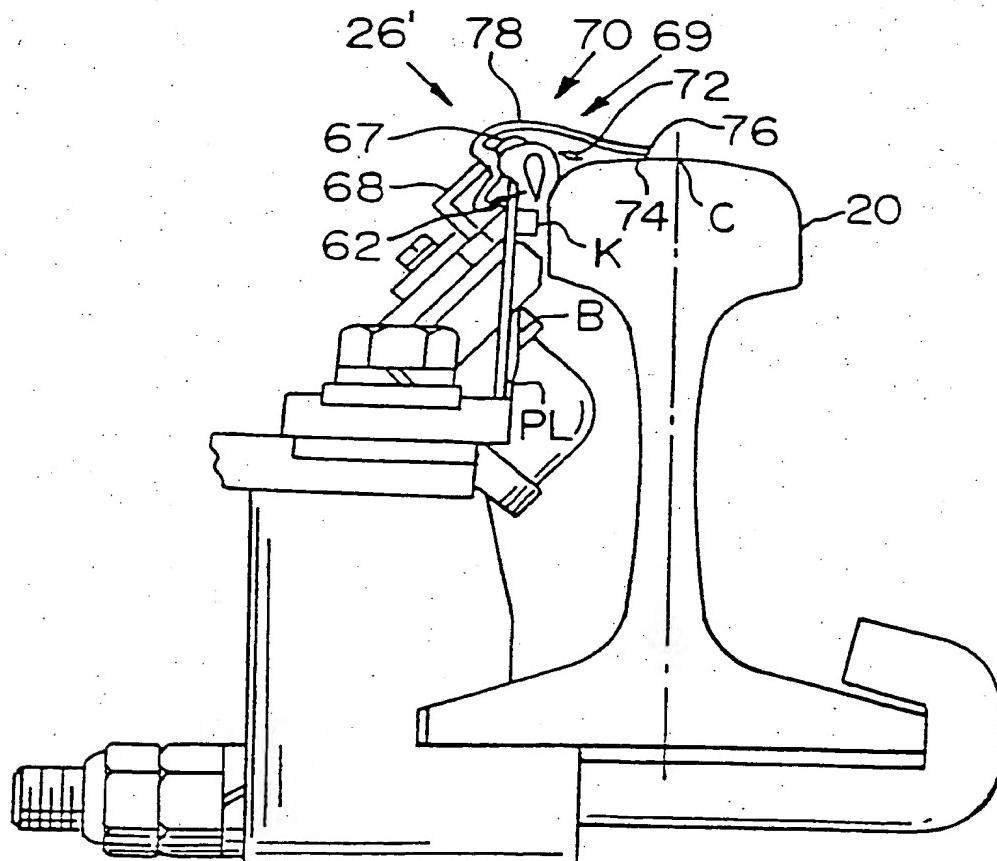


FIG. 7